

Section 1815 was renumbered section 1803(a)(2) of this title.

Section 1816 was renumbered sections 1832 and 1833 of this title.

Section 1817 was renumbered section 1813 of this title.

Section 1817A was renumbered section 1814 of this title.

Section 1818, added Pub. L. 89-358, §5(a), Mar. 3, 1966, 80 Stat. 25; amended Pub. L. 91-506, §2(e), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, §8(6), (7), Dec. 31, 1974, 88 Stat. 1866, 1867; Pub. L. 94-324, §4, June 30, 1976, 90 Stat. 720; Pub. L. 95-476, title I, §106(a), Oct. 18, 1978, 92 Stat. 1499; Pub. L. 97-72, title III, §303(g), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97-295, §4(66), Oct. 12, 1982, 96 Stat. 1310, which related to service after Jan. 31, 1955, and prior to Aug. 5, 1964, or after May 7, 1975, was repealed by Pub. L. 100-322, title IV, §415(b)(3), May 20, 1988, 102 Stat. 551.

Section 1819 was renumbered section 1812 of this title.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 3720. Powers of Secretary

(a) Notwithstanding the provisions of any other law, with respect to matters arising by reason of this chapter, the Secretary may—

(1) sue and be sued in the Secretary's official capacity in any court of competent jurisdiction, State or Federal, but nothing in this clause shall be construed as authorizing garnishment or attachment against the Secretary, the Department of Veterans Affairs, or any of its employees;

(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed, insured, made or acquired under this chapter;

(3) pay, or compromise, any claim on, or arising because of, any such guaranty or insurance;

(4) pay, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption;

(5) purchase at any sale, public or private, upon such terms and for such prices as the Secretary determines to be reasonable, and take title to, property, real, personal or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of any such property; and

(6) complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to this chapter. The acquisition of any such property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction of, on, or over such property (including power to tax) or impair the rights under the State or local law of any persons on such property. Without regard to section 3302(b) of title 31 or any other provision of law not expressly in limitation of this paragraph, the Secretary may permit brokers utilized by the Secretary in connection with such properties to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with the man-

agement, repair, sale, or lease of any such properties and remit the net balances to the Secretary.

(b) The powers granted by this section may be exercised by the Secretary without regard to any other provision of law not enacted expressly in limitation of this section, which otherwise would govern the expenditure of public funds, except that division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.

(c) The financial transactions of the Secretary incident to, or arising out of, the guaranty or insurance of loans pursuant to this chapter, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities and pursuant to this section, shall be final and conclusive upon all officers of the Government.

(d) The right to redeem provided for by section 2410(c) of title 28 shall not arise in any case in which the subordinate lien or interest of the United States derives from a guaranteed or insured loan.

[e] Repealed. Pub. L. 105-368, title VI, §602(c)(1), Nov. 11, 1998, 112 Stat. 3346.]

(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Secretary under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance available from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a)(2) of this section, extend on an individual case basis such forbearance or indulgence to such owner as the Secretary determines to be warranted by the facts of the case and the circumstances of such owner.

(g) The Secretary shall, at the request of the Secretary of Housing and Urban Development and without reimbursement, certify to such Secretary whether an applicant for assistance under any law administered by the Department of Housing and Urban Development is a veteran.

(h)(1) The Secretary may, upon such terms and conditions as the Secretary considers appropriate, issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter.

(2) The Secretary may not under this subsection guarantee the payment of principal and interest on certificates or other securities issued or approved after December 31, 2011.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1213, §1820; Pub. L. 88-151, §1, Oct. 17, 1963, 77 Stat. 271; Pub. L. 88-560, title VII, §701(e)(1), Sept. 2, 1964, 78 Stat. 800; Pub. L. 89-625, Oct. 4, 1966, 80 Stat. 874; Pub. L. 89-769, §3(c), Nov. 6, 1966, 80 Stat. 1316; Pub. L. 90-448, title VIII, §807(h), Aug. 1, 1968, 82

Stat. 545; Pub. L. 91-606, title II, §233, Dec. 31, 1970, 84 Stat. 1753; Pub. L. 92-328, title II, §205, June 30, 1972, 86 Stat. 397; Pub. L. 93-288, title VII, §702(l), formerly title VI, §602(l), May 22, 1974, 88 Stat. 164, renumbered title VII, §702(l), Pub. L. 103-337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94-324, §7(24)-(26), June 30, 1976, 90 Stat. 722; Pub. L. 95-117, title IV, §403(a), Oct. 3, 1977, 91 Stat. 1066; Pub. L. 97-258, §3(k)(3), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 97-295, §4(67), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 98-160, title VII, §702(14), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 99-576, title IV, §404, Oct. 28, 1986, 100 Stat. 3281; Pub. L. 100-707, title I, §109(n), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101-237, title III, §313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, §4(a), June 13, 1991, 105 Stat. 268; renumbered §3720 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-291, §5(a), May 20, 1992, 106 Stat. 179; Pub. L. 102-547, §4, Oct. 28, 1992, 106 Stat. 3636; Pub. L. 104-110, title I, §101(f), Feb. 13, 1996, 110 Stat. 768; Pub. L. 104-275, title II, §201, Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105-33, title VIII, §8011, Aug. 5, 1997, 111 Stat. 664; Pub. L. 105-368, title VI, §§602(c)(1), 604(a), Nov. 11, 1998, 112 Stat. 3346, 3348; Pub. L. 106-419, title IV, §402(a), Nov. 1, 2000, 114 Stat. 1861; Pub. L. 107-103, title IV, §405(b), Dec. 27, 2001, 115 Stat. 994; Pub. L. 111-350, §5(j)(3), Jan. 4, 2011, 124 Stat. 3850.)

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), referred to in subsec. (f), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2011—Subsec. (b). Pub. L. 111-350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

2001—Subsec. (h)(2). Pub. L. 107-103 substituted “December 31, 2011” for “December 31, 2008”.

2000—Subsec. (h)(2). Pub. L. 106-419 substituted “December 31, 2008” for “December 31, 2002”.

1998—Subsec. (b). Pub. L. 105-368, §604(a), substituted “, except that title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.” for “; however, section 3709 of the Revised Statutes (41 U.S.C. 5) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section if the amount of such contract exceeds the amount prescribed in clause (1) of the first sentence of such section.”

Subsec. (e). Pub. L. 105-368, §602(c)(1), struck out subsec. (e), which authorized Secretary to set aside first mortgage loans and installment sales contracts owned or held by Secretary under this chapter as basis for sale of participation certificates, authorized agreements, including trust agreements, for this purpose, and set forth provisions relating to allocation, deposit, and set aside of proceeds.

1997—Subsec. (h)(2). Pub. L. 105-33 substituted “December 31, 2002” for “December 31, 1997”.

1996—Subsec. (h)(2). Pub. L. 104-275 substituted “December 31, 1997” for “December 31, 1996”.

Pub. L. 104-110 substituted “December 31, 1996” for “December 31, 1995”.

1992—Subsec. (h). Pub. L. 102-547 substituted “December 31, 1995” for “December 31, 1992” in par. (2).

Pub. L. 102-291 added subsec. (h).

1991—Pub. L. 102-83, §5(a), renumbered section 1820 of this title as this section.

Subsec. (e)(2). Pub. L. 102-83, §5(c)(1), substituted “3723 and 3724” for “1823 and 1824” in two places.

Subsec. (g). Pub. L. 102-54 added subsec. (g).

1989—Subsecs. (a) to (c), (e), (f). Pub. L. 101-237 substituted “Secretary”, “Secretary’s”, and “Department of Veterans Affairs” for “Administrator”, “Administrator’s”, and “Veterans’ Administration”, respectively, wherever appearing.

1988—Subsec. (f). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974”.

1986—Subsec. (b). Pub. L. 99-576 substituted “the amount prescribed in clause (1) of the first sentence of such section” for “\$1,000”.

1983—Subsec. (a)(6). Pub. L. 98-160 struck out comma after “title 31”.

Subsec. (b). Pub. L. 98-160 substituted “section 3709 of the Revised Statutes (41 U.S.C. 5)” for “section 5 of title 41”.

1982—Subsec. (a)(6). Pub. L. 97-258 substituted “section 3302(b) of title 31” for “section 3617, Revised Statutes (31 U.S.C. 484)”.

Subsec. (f). Pub. L. 97-295 inserted “(42 U.S.C. 5121 et seq.)” after “the Disaster Relief Act of 1974”.

1977—Subsec. (a)(1). Pub. L. 95-117 inserted prohibition relating to garnishment or attachment against the Administrator, etc.

1976—Subsec. (a)(1). Pub. L. 94-324, §7(24), substituted “the Administrator’s” for “his”.

Subsec. (a)(5). Pub. L. 94-324, §7(24), substituted “the Administrator” for “he”.

Subsec. (a)(6). Pub. L. 94-324, §7(25), substituted “utilized by the Administrator” for “utilized by him”.

Subsec. (e)(1). Pub. L. 94-324, §7(26), substituted “the Administrator determines” for “he determines”, “by the Administrator” for “by him”, “the Administrator shall periodically” for “he shall periodically”, “set aside by the Administrator” for “set aside by him”, “the Administrator’s commitment” for “his commitment”, and “to pay the Administrator’s” for “to pay his”.

Subsec. (e)(2). Pub. L. 94-324, §7(26), substituted “as the Administrator determines” for “as he determines”.

1974—Subsec. (f). Pub. L. 93-288 substituted “Disaster Relief Act of 1974” for “Disaster Assistance Act of 1970.”

1972—Subsec. (a)(4). Pub. L. 92-328 struck out provisions relating to the authority to waive or release claims, including partial or total waiver of payment, following default and loss of property.

1970—Subsec. (a)(2). Pub. L. 91-606, §233(1), substituted “a loan which has been guaranteed, insured, made or acquired under this chapter” for “a loan which has been guaranteed or insured under this chapter”.

Subsec. (f). Pub. L. 91-606, §233(2), directed the Administrator in major disaster areas to provide the owner of property lost, destroyed, or damaged as the result of a major disaster with counseling and other services, to inform him of disaster assistance available from other Federal, state, or local agencies and to extend such forbearance on an individual case basis as he determines to be warranted by the facts of the case.

1968—Subsec. (e)(1). Pub. L. 90-448 substituted “Government National Mortgage Association” for “Federal National Mortgage Association” wherever appearing.

1966—Subsec. (a)(6). Pub. L. 89-625 authorized brokers utilized by Administrator in connection with properties acquired or held pursuant to this chapter to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with management, repair, sale, or lease of properties and to remit the net balances to Administrator.

Subsec. (f). Pub. L. 89-769 added subsec. (f).

1964—Subsec. (e). Pub. L. 88-560 added subsec. (e).

1963—Subsec. (a)(4). Pub. L. 88-151 provided for waiver of indebtedness to the United States in certain cases

arising out of default on loans guaranteed or made by the Veterans' Administration.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 602(c)(1) of Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

Pub. L. 105-368, title VI, §604(b), Nov. 11, 1998, 112 Stat. 3348, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to contracts entered into under section 3720 of title 38, United States Code, after the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 11, 1998]."

EFFECTIVE DATE OF 1977 AMENDMENT

Section 403(b) of Pub. L. 95-117 provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective June 30, 1972, see section 301(c) of Pub. L. 92-328, set out as a note under section 3713 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89-769.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

PROPERTY MANAGEMENT

Pub. L. 100-198, §9, Dec. 21, 1987, 101 Stat. 1320, as amended by Pub. L. 102-40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102-83, §6(i), Aug. 6, 1991, 105 Stat. 408, provided for programs under which the Secretary could (1) convey to nonprofit entities or to States or political subdivisions of States real property or improvements to real property acquired by the Secretary as the result of a default of a loan made under this chapter to use the properties to provide shelter for

homeless veterans and their families, or (2) convey such properties to entities for use in job training programs for property rehabilitation and later sale to homeless veterans. Authority to carry out the programs terminated on Oct. 1, 1990.

HOUSING SOLAR ENERGY AND WEATHERIZATION STUDY; REPORT NOT LATER THAN MARCH 1, 1978

Pub. L. 95-202, title III, §311, Nov. 23, 1977, 91 Stat. 1449, directed Administrator of Veterans' Affairs, in consultation with Secretary of Energy and Secretary of Housing and Urban Development, to conduct a study to determine the most effective methods of using the programs carried out under, or amending provisions of, this chapter in order to aid and encourage present and prospective veteran homeowners to install solar heating and cooling in their homes and to apply residential energy conservation measures and that a report on such study be submitted to Congress not later than Mar. 1, 1978.

WAIVER OF INDEBTEDNESS; REPORT TO CONGRESS

Section 2 of Pub. L. 88-151 provided that: "The Administrator of Veterans' Affairs shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Veterans' Affairs of the House of Representatives, not later than December 31 of each year, a written report concerning each case in which a waiver of indebtedness has been made under the authority of the amendment made by the first section of this Act [amending subsec. (a)(4) of this section]. Such report shall include, together with such other information as the Administrator deems appropriate, the name and address of each person with respect to which a waiver of indebtedness has been made and the total amount of such waiver."

ADMINISTRATION OF TRUSTS BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

Provision for participation sales and administration of trusts by Federal National Mortgage Association not to be construed as a repeal or modification of the provisions of subsection (e) of this section respecting the authority of the Administrator of Veterans' Affairs, see section 6(a) of Pub. L. 89-429, set out as a note under section 1717 of Title 12, Banks and Banking.

§ 3721. Incontestability

Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and of the amount of such guaranty or insurance. Nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation. The Secretary shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1213, §1821; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3721, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1821 of this title as this section.

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

§ 3722. Veterans Housing Benefit Program Fund

(a) There is hereby established in the Treasury of the United States a fund known as the Veter-

ans Housing Benefit Program Fund (hereinafter in this section referred to as the "Fund").

(b) The Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations under this chapter, other than administrative expenses, consistent with the Federal Credit Reform Act of 1990.

(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Any amount appropriated to the Fund.

(2) Amounts paid into the Fund under section 3729 of this title or any other provision of law or regulation established by the Secretary imposing fees on persons or other entities participating in the housing loan programs under this chapter.

(3) All other amounts received by the Secretary on or after October 1, 1998, incident to housing loan operations under this chapter, including—

(A) collections of principal and interest on housing loans made by the Secretary under this chapter;

(B) proceeds from the sale, rental, use, or other disposition of property acquired under this chapter;

(C) proceeds from the sale of loans pursuant to sections 3720(h) and 3733(a)(3) of this title; and

(D) penalties collected pursuant to section 3710(g)(4)(B) of this title.

(d) Amounts deposited into the Fund under paragraphs (2) and (3) of subsection (c) shall be deposited in the appropriate financing or liquidating account of the Fund.

(e) For purposes of this section, the term "housing loan" shall not include a loan made pursuant to subchapter V of this chapter.

(Added Pub. L. 105-368, title VI, §602(a)(2), Nov. 11, 1998, 112 Stat. 3345; amended Pub. L. 107-14, §8(a)(16), June 5, 2001, 115 Stat. 35.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

PRIOR PROVISIONS

Prior to renumbering of sections 1801 to 1851 of this chapter as sections 3701 to 3751 by Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406, section 1822 of this chapter, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1214; Pub. L. 89-358, §5(c), Mar. 3, 1966, 88 Stat. 26; Pub. L. 89-623, §1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 90-301, §2(b), May 7, 1968, 82 Stat. 113, which provided for bringing of an action in district court, by veteran or Attorney General, against one who knowingly participated in sale of property to a veteran for consideration in excess of reasonable value of property, was repealed by Pub. L. 93-569, §§7(a), 10, Dec. 31, 1974, 88 Stat. 1866, 1867, effective Dec. 31, 1974.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-14 substituted "hereinafter" for "hereafter".

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

TRANSFERS OF AMOUNTS INTO VETERANS HOUSING BENEFIT PROGRAM FUND

Pub. L. 105-368, title VI, §602(b), Nov. 11, 1998, 112 Stat. 3346, provided that: "All amounts in the following funds are hereby transferred to the Veterans Housing Benefit Program Fund:

"(1) The Direct Loan Revolving Fund, as such fund was continued under section 3723 of title 38, United States Code (as such section was in effect on the day before the effective date of this title [Nov. 11, 1998]).

"(2) The Department of Veterans Affairs Loan Guaranty Revolving Fund, as established by section 3724 of such title (as such section was in effect on the day before the effective date of this title).

"(3) The Guaranty and Indemnity Fund, as established by section 3725 of such title (as such section was in effect on the day before the effective date of this title)."

[[§ 3723 to 3725. Repealed. Pub. L. 105-368, title VI, § 602(a)(1), Nov. 11, 1998, 112 Stat. 3345]

Section 3723, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1214, §1823; Pub. L. 86-73, §4, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, §4, July 14, 1960, 74 Stat. 532; Pub. L. 87-84, §3, July 6, 1961, 75 Stat. 202; Pub. L. 88-274, Feb. 29, 1964, 78 Stat. 147; Pub. L. 88-560, title VII, §701(e)(2), Sept. 2, 1964, 78 Stat. 801; Pub. L. 94-324, §§6, 7(27), June 30, 1976, 90 Stat. 721, 722; Pub. L. 97-295, §4(68), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 97-452, §2(e)(2), Jan. 12, 1983, 96 Stat. 2479; Pub. L. 99-576, title IV, §405, Oct. 28, 1986, 100 Stat. 3281; Pub. L. 101-237, title III, §313(b)(1), (8), (9), Dec. 18, 1989, 103 Stat. 2077, 2078; renumbered §3723 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to direct loan revolving fund. See section 3722 of this title.

Section 3724, added Pub. L. 86-665, §7(a), July 14, 1960, 74 Stat. 532, §1824; amended Pub. L. 94-324, §7(28), June 30, 1976, 90 Stat. 722; Pub. L. 97-72, title III, §303(j), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 98-369, div. B, title V, §2511(b), July 18, 1984, 98 Stat. 1117; Pub. L. 99-322, §2(a), May 23, 1986, 100 Stat. 494; Pub. L. 100-689, title III, §303, Nov. 18, 1988, 102 Stat. 4177; Pub. L. 101-237, title III, §§302(a)(2), (3)(A), (c), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2070, 2071, 2077; renumbered §3724 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to Loan Guaranty Revolving Fund. See section 3722 of this title.

Section 3725, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1215, §1824; renumbered §1825, Pub. L. 86-665, §7(a), July 14, 1960, 74 Stat. 532; amended Pub. L. 94-324, §7(29), June 30, 1976, 90 Stat. 722; Pub. L. 101-237, title III, §302(a)(1), Dec. 18, 1989, 103 Stat. 2069; Pub. L. 102-54, §15(a)(2), June 13, 1991, 105 Stat. 289; renumbered §3725 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §2(b)(2), Oct. 28, 1992, 106 Stat. 3634, related to Guaranty and Indemnity Fund. See section 3722 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

§ 3726. Withholding of payments, benefits, etc.

(a) No officer, employee, department, or agency of the United States shall set off against, or otherwise withhold from, any veteran or the surviving spouse of any veteran any payments (other than benefit payments under any law administered by the Department of Veterans Affairs) which such veteran or surviving spouse

would otherwise be entitled to receive because of any liability to the Secretary allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such veteran or surviving spouse under this chapter, unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title.

(b) If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title.

(c) If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.

(Added Pub. L. 89-358, §5(f)(1), Mar. 3, 1966, 80 Stat. 26, §1826; amended Pub. L. 94-324, §7(30), June 30, 1976, 90 Stat. 722; Pub. L. 97-66, title V, §504, Oct. 17, 1981, 95 Stat. 1033; Pub. L. 101-237, title III, §313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered §3726, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-33, title VIII, §8033(a), Aug. 5, 1997, 111 Stat. 669.)

AMENDMENTS

1997—Pub. L. 105-33 designated existing provisions as subsec. (a), substituted “unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title.” for “unless (1) there is first received the consent in writing of such veteran or surviving spouse, as the case may be, or (2) such liability and the amount thereof was determined by a court of competent jurisdiction in a proceeding to which such veteran or surviving spouse was a party.”, and added subsecs. (b) and (c).

1991—Pub. L. 102-83 renumbered section 1826 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” and “Department of Veterans Affairs” for “Administrator” and “Veterans’ Administration”, respectively.

1981—Pub. L. 97-66 struck out subsec. (a) which provided that the Administrator could not, unless the Administrator had first obtained the consent in writing of an individual, set off against, or otherwise withhold from, such individual any benefits payable to such individual under any law administered by the Veterans’ Administration because of liability allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such individual under this chapter, and struck out designation “(b)” before “No officer, employee, department, or agency of the United States”.

1976—Subsec. (a). Pub. L. 94-324 substituted “the Administrator” for “he”.

Subsec. (b). Pub. L. 94-324 substituted “surviving spouse” for “widow” wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 8033(c) of Pub. L. 105-33 provided that: “The amendments made by this section [amending this section and section 5302 of this title] shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 17, 1980, see section 701(b)(3) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

§ 3727. Expenditures to correct or compensate for structural defects in mortgaged homes

(a) The Secretary is authorized, with respect to any property improved by a one- to four-family dwelling inspected during construction by the Department of Veterans Affairs or the Federal Housing Administration which the Secretary finds to have structural defects seriously affecting the livability of the property, to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property; except that such authority of the Secretary shall exist only (A) if the owner requests assistance under this section not later than four years (or such shorter time as the Secretary may prescribe) after the mortgage loan was made, guaranteed, or insured, and (B) if the property is encumbered by a mortgage which is made, guaranteed, or insured under this chapter after May 7, 1968.

(b) The Secretary shall by regulation prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and the Secretary’s decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive, and shall not be subject to judicial review.

(c) The Secretary is authorized to make expenditures for the purposes of this section from the fund established pursuant to section 3722 of this title.

(Added Pub. L. 90-301, §5(a), May 7, 1968, 82 Stat. 116, §1827; amended Pub. L. 94-324, §7(31), June 30, 1976, 90 Stat. 722; Pub. L. 101-237, title III, §313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered §3727 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title VI, §602(e)(1)(C), title X, §1005(b)(11), Nov. 11, 1998, 112 Stat. 3346, 3365.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-368, §1005(b)(11), substituted “May 7, 1968” for “the date of enactment of this section”.

Subsec. (c). Pub. L. 105-368, §602(e)(1)(C), substituted “fund established pursuant to section 3722 of this title” for “funds established pursuant to sections 3723 and 3724 of this title, as applicable”.

1991—Pub. L. 102-83, §5(a), renumbered section 1827 of this title as this section.

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted “3723 and 3724” for “1823 and 1824”.

1989—Pub. L. 101-237 substituted “Secretary”, “Secretary’s”, and “Department of Veterans Affairs” for “Administrator”, “Administrator’s”, and “Veterans’ Administration”, respectively, wherever appearing.

1976—Subsec. (a). Pub. L. 94-324 substituted “the Administrator finds” for “he finds”.

Subsec. (b). Pub. L. 94-324 substituted “the Administrator’s” for “his”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 602 of Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

§ 3728. Exemption from State anti-usury provisions

If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law (1) limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, (2) restricting the manner of calculating such interest (including prohibition of the charging of interest on interest), or (3) requiring a minimum amortization of principal, then loans guaranteed or insured under this chapter are also exempt from the application of such provisions.

(Added Pub. L. 96-128, title IV, § 401(a), Nov. 28, 1979, 93 Stat. 986, § 1828; amended Pub. L. 97-66, title V, § 501(b), Oct. 17, 1981, 95 Stat. 1032; renumbered § 3728, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Titles I and II of the Act are classified generally to subchapters I (§1702 et seq.) and II (§1707 et seq.), respectively, of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1828 of this title as this section.

1981—Pub. L. 97-66 designated as cl. (1) existing provisions relating to the limiting of rates or amounts of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, and added cls. (2) and (3).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective Nov. 28, 1979, see section 601(b) of Pub. L. 96-128, set out as an Effective Date of 1979 Amendment note under section 1114 of this title.

§ 3729. Loan fee

(a) REQUIREMENT OF FEE.—(1) Except as provided in subsection (c), a fee shall be collected from each person obtaining a housing loan guaranteed, insured, or made under this chapter, and each person assuming a loan to which section 3714 of this title applies. No such loan may be guaranteed, insured, made, or assumed until the fee payable under this section has been remitted to the Secretary.

(2) The fee may be included in the loan and paid from the proceeds thereof.

(b) DETERMINATION OF FEE.—(1) The amount of the fee shall be determined from the loan fee table in paragraph (2). The fee is expressed as a percentage of the total amount of the loan guaranteed, insured, or made, or, in the case of a loan assumption, the unpaid principal balance of the loan on the date of the transfer of the property.

(2) The loan fee table referred to in paragraph (1) is as follows:

LOAN FEE TABLE

Type of loan	Active duty veteran	Reservist	Other obligor
(A)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed before January 1, 2004)	2.00	2.75	NA
(A)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after January 1, 2004, and before October 1, 2004)	2.20	2.40	NA
(A)(iii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2004, and before October 1, 2011)	2.15	2.40	NA

LOAN FEE TABLE—Continued

Type of loan	Active duty veteran	Reservist	Other obligor
(A)(iv) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2011)	1.40	1.65	NA
(B)(i) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed before January 1, 2004)	3.00	3.00	NA
(B)(ii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after January 1, 2004, and before October 1, 2011)	3.30	3.30	NA
(B)(iii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2011 and before October 1, 2013)	2.15	2.15	NA

LOAN FEE TABLE—Continued

Type of loan	Active duty veteran	Reservist	Other obligor
(B)(iv) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2013)	1.25	1.25	NA
(C)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed before October 1, 2011)	1.50	1.75	NA
(C)(ii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after October 1, 2011)	0.75	1.00	NA
(D)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed before October 1, 2011)	1.25	1.50	NA
(D)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after October 1, 2011)	0.50	0.75	NA
(E) Interest rate reduction refinancing loan	0.50	0.50	NA
(F) Direct loan under section 3711	1.00	1.00	NA
(G) Manufactured home loan under section 3712 (other than an interest rate reduction refinancing loan) ...	1.00	1.00	NA

LOAN FEE TABLE—Continued

Type of loan	Active duty veteran	Reservist	Other obligor
(H) Loan to Native American veteran under section 3762 (other than an interest rate reduction refinancing loan) ...	1.25	1.25	NA
(I) Loan assumption under section 3714	0.50	0.50	0.50
(J) Loan under section 3733(a) ..	2.25	2.25	2.25

(3) Any reference to a section in the "Type of loan" column in the loan fee table in paragraph (2) refers to a section of this title.

(4) For the purposes of paragraph (2):

(A) The term "active duty veteran" means any veteran eligible for the benefits of this chapter other than a Reservist.

(B) The term "Reservist" means a veteran described in section 3701(b)(5)(A) of this title who is eligible under section 3702(a)(2)(E) of this title.

(C) The term "other obligor" means a person who is not a veteran, as defined in section 101 of this title or other provision of this chapter.

(D) The term "initial loan" means a loan to a veteran guaranteed under section 3710 or made under section 3711 of this title if the veteran has never obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(E) The term "subsequent loan" means a loan to a veteran, other than an interest rate reduction refinancing loan, guaranteed under section 3710 or made under section 3711 of this title if the veteran has previously obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(F) The term "interest rate reduction refinancing loan" means a loan described in section 3710(a)(8), 3710(a)(9)(B)(i), 3710(a)(11), 3712(a)(1)(F), or 3762(h) of this title.

(G) The term "0-down" means a downpayment, if any, of less than 5 percent of the total purchase price or construction cost of the dwelling.

(H) The term "5-down" means a downpayment of at least 5 percent or more, but less than 10 percent, of the total purchase price or construction cost of the dwelling.

(I) The term "10-down" means a downpayment of 10 percent or more of the total purchase price or construction cost of the dwelling.

(c) WAIVER OF FEE.—(1) A fee may not be collected under this section from a veteran who is receiving compensation (or who, but for the receipt of retirement pay or active service pay, would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.

(Added Pub. L. 97-253, title IV, § 406(a)(1), Sept. 8, 1982, 96 Stat. 805, § 1829; amended Pub. L. 98-369, div. B, title V, § 2511(a), July 18, 1984, 98 Stat. 1117; Pub. L. 100-198, §§ 2, 10(c), Dec. 21, 1987, 101 Stat. 1315, 1323; Pub. L. 100-203, title VII, § 7002, Dec. 22, 1987, 101 Stat. 1330-279; Pub. L. 100-322, title IV, § 415(c)(6), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, §§ 303(a), 313(b)(1), Dec. 18, 1989, 103 Stat. 2071, 2077; Pub. L. 101-239, title V, § 5001, Dec. 19, 1989, 103 Stat. 2136; Pub. L. 101-508, title VIII, § 8032, Nov. 5, 1990, 104 Stat. 1388-348; Pub. L. 102-54, § 15(a)(3), (4), June 13, 1991, 105 Stat. 289; renumbered § 3729 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §§ 2(b)(1), 5, Oct. 28, 1992, 106 Stat. 3633, 3636; Pub. L. 103-66, title XII, § 12007, Aug. 10, 1993, 107 Stat. 414; Pub. L. 103-446, title IX, § 904(c), Nov. 2, 1994, 108 Stat. 4677; Pub. L. 104-275, title II, § 202(b), Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105-33, title VIII, §§ 8012, 8032, Aug. 5, 1997, 111 Stat. 664, 669; Pub. L. 105-368, title VI, §§ 602(e)(1)(D), 603(b), Nov. 11, 1998, 112 Stat. 3346, 3348; Pub. L. 106-419, title IV, § 402(b), Nov. 1, 2000, 114 Stat. 1861; Pub. L. 107-14, § 8(b)(4), June 5, 2001, 115 Stat. 36; Pub. L. 107-103, title IV, § 405(c), 406, Dec. 27, 2001, 115 Stat. 994; Pub. L. 108-183, title IV, § 405, Dec. 16, 2003, 117 Stat. 2665; Pub. L. 108-454, title IV, § 406, Dec. 10, 2004, 118 Stat. 3617; Pub. L. 111-275, title II, § 204, Oct. 13, 2010, 124 Stat. 2874.)

AMENDMENTS

2010—Subsec. (c)(1). Pub. L. 111-275 inserted "or active service pay" after "retirement pay".

2004—Subsec. (c). Pub. L. 108-454 designated existing provisions as par. (1) and added par. (2).

2003—Subsec. (b)(2). Pub. L. 108-183 amended par. (2) generally, revising table by adding cls. (iii) and (iv) of subpars. (A) and (B) and changing dates in subpars. (A) and (B).

2001—Pub. L. 107-14 made technical amendment to Pub. L. 106-419. See 2000 Amendment note below.

Subsec. (b)(2). Pub. L. 107-103, § 405(c), substituted "October 1, 2011" for "October 1, 2008" wherever appearing in table.

Subsec. (b)(4)(B). Pub. L. 107-103, § 406, inserted "who is eligible under section 3702(a)(2)(E) of this title" before period.

2000—Pub. L. 106-419, as amended by Pub. L. 107-14, amended text generally, substituting present provisions for provisions which established loan fee, set fee as 1.25 percent of total loan amount, with exceptions, provided that amount of fee may be included in loan amount and paid from proceeds thereof, provided for increased loan fee percentage for loans closed during specified period, provided for fees on subsequent loans and assumed loans, and provided that fees may not be collected from veterans receiving compensation or from surviving spouses of any veterans who died from service-connected disability.

1998—Subsec. (a)(1). Pub. L. 105-368, § 602(e)(1)(D)(ii), substituted "(c)" for "(c)(1)".

Subsec. (a)(4). Pub. L. 105-368, § 603(b), designated existing provisions as subpar. (A), substituted "during

the period specified in subparagraph (B)" for "after September 30, 1993, and before October 1, 2002," and added subpar. (B).

Subsec. (c). Pub. L. 105-368, § 603(e)(1)(D)(i), struck out "(1)" before "A fee may not" and struck out pars. (2) and (3) which read as follows:

"(2) There shall be credited to the Guaranty and Indemnity Fund (in addition to the amount required to be credited to such Fund under clause (A) or (B) of paragraph (2) of section 3725(c) of this title or paragraph (3) of that section), on behalf of a veteran or surviving spouse described in paragraph (1) of this subsection, an amount equal to the fee that, except for paragraph (1) of this subsection, would be collected from such veteran or surviving spouse.

"(3) Credits to the Guaranty and Indemnity Fund under paragraph (2) of this subsection with respect to loans guaranteed, insured, or made under this chapter that are closed during fiscal year 1990 shall be made in October 1990."

1997—Subsec. (a)(2)(A). Pub. L. 105-33, § 8032(1)(A), struck out "or 3733(a)" after "section 3711".

Subsec. (a)(2)(F). Pub. L. 105-33, § 8032(1)(B)-(D), added subpar. (F).

Subsec. (a)(4). Pub. L. 105-33, §§ 8012(1), 8032(2), substituted "October 1, 2002" for "October 1, 1998" and "(E), or (F)" for "or (E)".

Subsec. (a)(5)(C). Pub. L. 105-33, § 8012(2), substituted "October 1, 2002" for "October 1, 1998".

1996—Subsec. (a)(2)(E). Pub. L. 104-275 substituted "3712(a)(1)(F), or 3762(h)" for "or 3712(a)(1)(F)".

1994—Subsec. (a)(2)(E). Pub. L. 103-446 inserted "3710(a)(11)," after "3710(a)(9)(B)(i)."

1993—Subsec. (a)(2). Pub. L. 103-66, § 12007(c), substituted "paragraphs (4) and (5)" for "paragraph (6)" in introductory provisions.

Subsecs. (a)(4) to (6). Pub. L. 103-66, § 12007(a), (b), added pars. (4) and (5) and struck out par. (6) which read as follows: "With respect to each loan closed during the period beginning on November 1, 1990, and ending on September 30, 1991, each amount specified in paragraph (2) of this subsection shall be increased by 0.625 percent of the total loan amount."

1992—Subsec. (a)(2)(A). Pub. L. 102-547, § 5(1), inserted "(other than section 3712(a)(1)(F))" after "section 3712".

Subsec. (a)(2)(D). Pub. L. 102-547, § 2(b)(1), added subpar. (D).

Subsec. (a)(2)(E). Pub. L. 102-547, § 5(2), added subpar. (E).

1991—Pub. L. 102-83, § 5(a), renumbered section 1829 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, § 5(c)(1), substituted "3733(a)" for "1833(a)".

Subsec. (a)(2). Pub. L. 102-83, § 5(c)(1), substituted "3711 or 3733(a)" for "1811 or 1833(a)" and "3712" for "1812" in subpar. (A) and "3712(a)" for "1812(a)" in subpars. (B) and (C).

Subsec. (a)(3) to (5). Pub. L. 102-54, § 15(a)(3), redesignated par. (5) as (3) and struck out former pars. (3) and (4) which read as follows:

"(3) Except as provided in paragraph (4) of this subsection, there shall be credited to the Guaranty and Indemnity Fund (in addition to the amount required to be credited to such Fund under section 1825(c)(2)(A) or (B) of this title), on behalf of a veteran who has made a downpayment described in paragraph (2)(C) of this subsection, an amount equal to 0.25 percent of the total loan amount for the fiscal year in which the loan is closed and for the following fiscal year.

"(4) Credits to the Guaranty and Indemnity Fund under paragraph (3) of this subsection with respect to loans guaranteed or insured under this chapter that are closed during fiscal year 1990 shall be made in October 1990 and October 1991."

Subsec. (b). Pub. L. 102-83, § 5(c)(1), substituted "3714" for "1814".

Subsec. (c)(2). Pub. L. 102-83, § 5(c)(1), substituted "3725(c)" for "1825(c)".

Pub. L. 102-54, § 15(a)(4), substituted "clause (A) or (B) of paragraph (2) of section 1825(c) of this title or para-

graph (3) of that section" for "section 1825(c)(2)(A) or (B) of this title and subsection (a)(3) of this section".

1990—Subsec. (a)(2). Pub. L. 101-508, § 8032(1), substituted "Except as provided in paragraph (6) of this subsection, the amount" for "The amount".

Subsec. (a)(6). Pub. L. 101-508, § 8032(2), added par. (6).

1989—Pub. L. 101-237, § 303(a), amended section generally. Prior to amendment, section read as follows:

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and from each person obtaining a loan from the Secretary to finance the purchase of real property from the Secretary, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Secretary. The amount of the fee shall be one percent of the total loan amount. The amount of the fee may be included in the loan and paid from the proceeds thereof.

"(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

"(c) A fee may not be collected under this section with respect to any loan closed after September 30, 1990.

"(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan to which section 1814 of this chapter applies. The amount of the fee shall be equal to one-half of one percent of the balance of such loan on the date of the transfer of the property."

Subsec. (a). Pub. L. 101-237, § 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (c). Pub. L. 101-239 substituted "September 30, 1990" for "September 30, 1989".

1988—Subsec. (d). Pub. L. 100-322 substituted "section 1814" for "section 1817A".

1987—Subsec. (b). Pub. L. 100-198, § 2(b), substituted "of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability" for "described in section 1801(b)(2) of this title".

Subsec. (c). Pub. L. 100-198, § 2(a), and Pub. L. 100-203, amended subsec. identically, substituting "September 30, 1989" for "September 30, 1987".

Subsec. (d). Pub. L. 100-198, § 10(c), added subsec. (d).

1984—Subsec. (a). Pub. L. 98-369, § 2511(a)(1), inserted "and from each person obtaining a loan from the Administrator to finance the purchase of real property from the Administrator," after "under this chapter," struck out "one-half of" before "one percent of the total loan amount", and struck out "to the veteran" after "in the loan".

Subsecs. (c), (d). Pub. L. 98-367, § 2511(a)(2), (3), redesignated subsec. (d) as (c) and substituted "September 30, 1987" for "September 30, 1985". Former subsec. (c), which related to deposit of fees collected under this section into Treasury as miscellaneous receipts, was struck out.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-183, title IV, § 405, Dec. 16, 2003, 117 Stat. 2665, provided that the amendment made by section 405 is effective Jan. 1, 2004.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-14, § 8(b), June 5, 2001, 115 Stat. 36, provided that the amendment made by section 8(b) is effective Nov. 1, 2000, and as if included in the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. 106-419, as enacted.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 303(b) of Pub. L. 101-237 provided that: "The amendments made by this section [amending this section] shall take effect on January 1, 1990."

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2511(c) of Pub. L. 98-369 provided that:

"(1) The amendments made by subsection (a)(1) [amending this section] shall apply with respect to loans closed after the end of the 30-day period beginning on the date of the enactment of this Act [July 18, 1984].

"(2) The amendments made by subsections (a)(2) and (b) [amending this section and section 1824 [now 3724] of this title] shall apply with respect to loans closed on or after the date of the enactment of this Act [July 18, 1984].

"(3) The amendment made by subsection (a)(3) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984]."

EFFECTIVE DATE

Section 406(b) of Pub. L. 97-253, as amended by Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "Section 1829 [now 3729] of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982."

TEMPORARY INCREASE IN CERTAIN HOUSING LOAN FEES

Pub. L. 109-233, title I, §101(f), June 15, 2006, 120 Stat. 399, provided that: "For a subsequent loan described in subsection (a) of section 3710 of title 38, United States Code, to purchase or construct a dwelling with 0-down or any other subsequent loan described in that subsection, other than a loan with 5-down or 10-down, that is closed during fiscal year 2007, the Secretary of Veterans Affairs shall apply section 3729(b)(2) of such title by substituting '3.35' for '3.30'."

FEE FOR LOAN ASSUMPTION

Pub. L. 107-330, title III, §307, Dec. 6, 2002, 116 Stat. 2827, provided that:

"(a) IN GENERAL.—For the period described in subsection (b), the Secretary of Veterans Affairs shall apply section 3729(b)(2)(I) of title 38, United States Code, by substituting '1.00' for '0.50' each place it appears.

"(b) PERIOD DESCRIBED.—The period referred to in subsection (a) is the period that begins on the date that is 7 days after the date of the enactment of this Act [Dec. 6, 2002] and ends on September 30, 2003."

RATIFICATION OF ACTIONS BY SECRETARY OF VETERANS AFFAIRS AND BY SECRETARY OF THE TREASURY BETWEEN OCT. 1, 1990, AND JUNE 13, 1991

Section 15(b) of Pub. L. 102-54, as amended by Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

"(1) Any action of the Secretary of Veterans Affairs or the Secretary of the Treasury—

"(A) that was taken during the period beginning on October 1, 1990, and ending on the date of the enactment of this Act [June 13, 1991]; and

"(B) that would have been an action carried out under section 3725(c)(3) [formerly 1825(c)(3)] of title 38, United States Code, if the amendment made by paragraph (2) of subsection (a) of this section had been made before October 1, 1990, is hereby ratified.

"(2) Any failure to act by the Secretary of Veterans Affairs or the Secretary of the Treasury during such period under section 3729(a)(3) [formerly 1829(a)(3)] of such title is hereby ratified."

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING TRANSITION PERIODS

For provisions ratifying any actions of the Secretary of Veterans Affairs in carrying out this section during the period beginning Dec. 1, 1989, and ending Dec. 18,

1989, see section 604 of Pub. L. 101-237, set out as a note under section 1720B of this title.

For provisions ratifying any actions of the Secretary of Veterans Affairs in carrying out this section during the period beginning Oct. 1, 1989, and ending Oct. 6, 1989, see section 3(b) of Pub. L. 101-110, set out as a note under section 1720B of this title.

RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS

For rule relating to construction of provisions of Pub. L. 100-203 and Pub. L. 100-198 making duplicate amendments to this section, see section 7004(b) of Pub. L. 100-203, set out as a note under section 3733 of this title.

EXTENSION OF TIME FOR COLLECTION OF FEES

Section 303(c) of Pub. L. 101-237 directed Secretary of Veterans Affairs to collect fees under this section through Dec. 31, 1989.

Pub. L. 101-110, §2, Oct. 6, 1989, 103 Stat. 682, authorized collection of fees under this section with respect to loans closed before Dec. 1, 1989.

Pub. L. 100-136, §1(b), Oct. 16, 1987, 101 Stat. 813, authorized collection of fees under this section with respect to loans closed through Nov. 15, 1987.

HOME LOAN ORIGATION FEE

Pub. L. 99-576, title IV, §409, Oct. 28, 1986, 100 Stat. 3283, provided that: "It is the sense of the Congress that the Veterans' Administration loan origination fee should not be increased above its present level of one percent of the amount of the loan guaranteed."

§ 3730. Use of attorneys in court

(a) The Secretary shall authorize attorneys employed by the Department of Veterans Affairs to exercise the right of the United States to bring suit in court to foreclose a loan made or acquired by the Secretary under this chapter and to recover possession of any property acquired by the Secretary under this chapter. The Secretary may acquire the services of attorneys, other than those who are employees of the Department of Veterans Affairs, to exercise that right. The activities of attorneys in bringing suit under this section shall be subject to the direction and supervision of the Attorney General and to such terms and conditions as the Attorney General may prescribe.

(b) Nothing in this section derogates from the authority of the Attorney General under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.

(Added Pub. L. 98-369, div. B, title V, §2512(b)(1), July 18, 1984, 98 Stat. 1120, §1830; amended Pub. L. 99-576, title IV, §406, Oct. 28, 1986, 100 Stat. 3282; Pub. L. 101-237, title III, §313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered §3730, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title X, §1005(b)(12), Nov. 11, 1998, 112 Stat. 3365.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-368 substituted "The Secretary shall" for "Within 180 days after the date of the enactment of this section, the Secretary shall take appropriate steps to".

1991—Pub. L. 102-83 renumbered section 1830 of this title as this section.

1989—Subsec. (a). Pub. L. 101-237 substituted "Secretary" and "Department of Veterans Affairs" for "Administrator" and "Veterans' Administration", respectively, wherever appearing.

1986—Subsec. (a). Pub. L. 99-576 substituted “The” for “With the concurrence of the Attorney General of the United States, the” in second sentence.

EFFECTIVE DATE

Section 2512(c)(3) of Pub. L. 98-369 provided that: “The amendments made by subsection (b) [enacting this section] shall take effect on the date of the enactment of this Act [July 18, 1984].”

§ 3731. Appraisals

(a) The Secretary shall—

(1) subject to subsection (b)(2) and in consultation with appropriate representatives of institutions which are regularly engaged in making housing loans, prescribe uniform qualifications for appraisers, including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers;

(2) use such qualifications in determining whether to approve an appraiser to make appraisals of the reasonable value of any property, construction, repairs, or alterations for the purposes of this chapter; and

(3) in consultation with local representatives of institutions described in clause (1) of this subsection, develop and maintain lists of appraisers who are approved under clause (2) of this subsection to make appraisals for the purposes of this chapter.

(b)(1) The Secretary shall select appraisers from a list required by subsection (a)(3) of this section on a rotating basis to make appraisals for the purposes of this chapter.

(2) If uniform qualifications become applicable for appraisers who perform appraisals for or in connection with the Federal Government, the qualifications required by subsection (a)(1) of this section may be more stringent than such uniform qualifications, but the Secretary may use no written test in determining the qualifications of appraisers other than the test prescribed to implement such uniform qualifications.

(c) Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Secretary for review. Upon receipt of such report, the Secretary shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Secretary shall furnish a copy of the appraisal made of property for the purposes of this chapter to the lender proposing to make the loan which is to be secured by such property and is to be guaranteed under this chapter.

(d) If a lender (other than a lender authorized under subsection (f) of this section to determine reasonable value)—

(1) has proposed to make a loan to be guaranteed under this chapter,

(2) has been furnished a certificate of reasonable value of any property or of any construction, repairs, or alterations of property which is to be the security for such loan, and

(3) within a reasonable period prescribed by the Secretary, has furnished to the Secretary

an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the lender from the list required by subsection (a)(3) of this section,

the Secretary shall consider both the initial appraisal and the additional appraisal and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(e)(1) In no case may a veteran be required to pay all or any portion of the cost of the additional appraisal described in subsection (d)(3) of this section.

(2) If a veteran, within a reasonable period prescribed by the Secretary, has furnished to the Secretary an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the veteran from the list required by subsection (a)(3) of this section, the Secretary shall consider such appraisal, along with other appraisals furnished to the Secretary, and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(f)(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the Secretary may, in accordance with standards and procedures established in regulations prescribed by the Secretary, authorize a lender to determine the reasonable value of property for the purposes of this chapter if the lender is authorized to make loans which are automatically guaranteed under section 3702(d) of this title. In such a case, the appraiser selected by the Secretary pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Secretary.

(2) In exercising the authority provided in paragraph (1) of this subsection, the Secretary shall assign a sufficient number of personnel to carry out an appraisal-review system to monitor, on at least a random-sampling basis, the making of appraisals by appraisers and the effectiveness and the efficiency of the determination of reasonable value of property by lenders.

[(3) Repealed. Pub. L. 104-110, title I, §101(g), Feb. 13, 1996, 110 Stat. 768.]

(4) Not later than April 30 of each year following a year in which the Secretary authorizes lenders to determine reasonable value of property under this subsection, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report relating to the exercise of that authority during the year in which the authority was exercised.

(5) A report submitted pursuant to paragraph (4) of this subsection shall include, for the period covered by each report—

(A) the number and value of loans made by lenders exercising the authority of this subsection;

(B) the number and value of such loans reviewed by the appraisal-review monitors referred to in paragraph (2) of this subsection;

(C) the number and value of loans made under this subsection of which the Secretary received notification of default;

(D) the amount of guaranty paid by the Secretary to such lenders by reason of defaults on loans as to which reasonable value was determined under this subsection; and

(E) such recommendations as the Secretary considers appropriate to improve the exercise of the authority provided for in this subsection and to protect the interests of the United States.

(Added Pub. L. 99-576, title IV, §407(a), Oct. 28, 1986, 100 Stat. 3282, §1831; amended Pub. L. 100-198, §11(a), (b), Dec. 21, 1987, 101 Stat. 1324; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, §3(b), (c), June 13, 1991, 105 Stat. 267; renumbered §3731 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §7, Oct. 28, 1992, 106 Stat. 3636; Pub. L. 104-110, title I, §101(g), Feb. 13, 1996, 110 Stat. 768.)

CODIFICATION

Another section 11(b) of Pub. L. 100-198 amended section 1810 [now 3710] of this title.

AMENDMENTS

1996—Subsec. (f)(3). Pub. L. 104-110 struck out par. (3) which read as follows: "The authority provided in this subsection shall terminate on December 31, 1995."

1992—Subsec. (f)(3). Pub. L. 102-547 substituted "1995" for "1992".

1991—Pub. L. 102-83, §5(a), renumbered section 1831 of this title as this section.

Subsec. (f)(1). Pub. L. 102-83, §5(c)(1), substituted "3702(d)" for "1802(d)".

Subsec. (f)(3). Pub. L. 102-54, §3(b), substituted "December 31, 1992" for "October 1, 1990".

Subsec. (f)(4), (5). Pub. L. 102-54, §3(c), added pars. (4) and (5).

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1987—Subsec. (a)(1). Pub. L. 100-198, §11(a)(1), inserted "subject to subsection (b)(2) and" at beginning and ", including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers" before semicolon at end.

Subsec. (b). Pub. L. 100-198, §11(a)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 100-198, §11(b)(1), substituted "Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall" for "The Administrator shall, upon request,".

Subsec. (d). Pub. L. 100-198, §11(b)(2), which directed insertion of "(other than a lender authorized under subsection (f) of this section to determine reasonable value)" after "lender" was executed by making the insertion after "lender" the first place it appears in subsec. (d), as the probable intent of Congress, notwithstanding appearance of "lender" in subsec. (d)(3).

Subsec. (f). Pub. L. 100-198, §11(b)(3), added subsec. (f).

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary

under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

§ 3732. Procedure on default

(a)(1) In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Secretary of such default. Upon receipt of such notice, the Secretary may, subject to subsection (c) of this section, pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed. Except as provided in section 3703(e) of this title, if the Secretary makes such a payment, the Secretary shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty.

(2)(A) Before suit or foreclosure the holder of the obligation shall notify the Secretary of the default, and within thirty days thereafter the Secretary may, at the Secretary's option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forbearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Secretary.

(B) In the event that a housing loan guaranteed under this chapter is modified under the authority provided under section 1322(b) of title 11, the Secretary may pay the holder of the obligation the unpaid principal balance of the obligation due, plus accrued interest, as of the date of the filing of the petition under title 11, but only upon the assignment, transfer, and delivery to the Secretary (in a form and manner satisfactory to the Secretary) of all rights, interest, claims, evidence, and records with respect to the housing loan.

(3) The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

(4)(A) Upon receiving a notice pursuant to paragraph (1) of this subsection, the Secretary shall—

(i) provide the veteran with information and, to the extent feasible, counseling regarding—

(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Secretary by means of a deed in lieu of foreclosure, and the actions authorized by paragraph (2) of this subsection; and

(II) what the Department of Veterans Affairs' and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

(ii) advise the veteran regarding the availability of such counseling;

except with respect to loans made by a lender which the Secretary has determined has a demonstrated record of consistently providing timely and accurate information to veterans with respect to such matters.

(B) The Secretary shall, to the extent of the availability of appropriations, ensure that sufficient personnel are available to administer subparagraph (A) of this paragraph effectively and efficiently.

(5) In the event of default in the payment of any loan guaranteed or insured under this chapter in which a partial payment has been tendered by the veteran concerned and refused by the holder, the holder of the obligation shall notify the Secretary as soon as such payment has been refused. The Secretary may require that any such notification include a statement of the circumstances of the default, the amount tendered, the amount of the indebtedness on the date of the tender, and the reasons for the holder's refusal.

(b) With respect to any loan made under section 3711 which has not been sold as provided in subsection (g) of such section, if the Secretary finds, after there has been a default in the payment of any installment of principal or interest owing on such loan, that the default was due to the fact that the veteran who is obligated under the loan has become unemployed as the result of the closing (in whole or in part) of a Federal installation, the Secretary shall (1) extend the time for curing the default to such time as the Secretary determines is necessary and desirable to enable such veteran to complete payments on such loan, including an extension of time beyond the stated maturity thereof, or (2) modify the terms of such loan for the purpose of changing the amortization provisions thereof by recasting, over the remaining term of the loan, or over such longer period as the Secretary may determine, the total unpaid amount then due with the modification to become effective currently or upon the termination of an agreed-upon extension of the period for curing the default.

(c)(1) For purposes of this subsection—

(A) The term "defaulted loan" means a loan that is guaranteed under this chapter, that was made for a purpose described in section 3710(a) of this title, and that is in default.

(B) The term "liquidation sale" means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

(C) The term "net value", with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost to the Government of borrowing funds.

(D) Except as provided in subparagraph (D) of paragraph (10) of this subsection, the term "total indebtedness", with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date applicable under paragraph (10) of this subsection,

and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by regulations prescribed by the Secretary to implement this subsection) associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

(B) This subsection does not apply to a case in which the Secretary proceeds under subsection (a)(2) of this section.

(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Secretary of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Secretary to implement this subsection.

(B) After receiving a notice described in subparagraph (A) of this paragraph, the Secretary shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

(A) the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan does not acquire the property securing the loan at the liquidation sale, the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (A) the amount of such total indebtedness, minus (B) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and—

(A)(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liq-

liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; or

(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6) of this subsection.

(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter—

(A) the Secretary may not accept conveyance of the property from the holder of the loan; and

(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 3703(b) of this title. All determinations under this subsection of net value and total indebtedness shall be made by the Secretary.

(10)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Secretary may specify pursuant to regulations prescribed by the Secretary to implement this subsection).

(B)(i) Subject to division (ii) of this subparagraph, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forbearance at the request of the Secretary, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forbearance was requested and prior to the date of such sale, as the Secretary specifies pursuant to regulations which the Secretary shall prescribe to implement this paragraph.

(ii) The Secretary may specify a date under subdivision (i) of this subparagraph only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Secretary is authorized, under paragraph (5)(A) or (7)(A) of this subsection, to accept conveyance of the property.

(C) In any case in which there is an excessive delay in such liquidation sale caused—

(i) by the Department of Veterans Affairs (including any delay caused by its failure to provide bidding instructions in a timely fashion); or

(ii) by a voluntary case commenced under title 11, United States Code (relating to bankruptcy);

the date referred to in paragraph (1)(D)(ii) of this subsection shall be a date, earlier than the date of such liquidation sale, which the Secretary specifies pursuant to regulations which the Secretary shall prescribe to implement this paragraph.

(D) For the purpose of determining the liability of the United States under a loan guaranty under paragraphs (5)(B), (6), (7)(B), and (8)(B), the amount of the total indebtedness with respect to such loan guaranty shall include, in any case in which there was an excessive delay caused by the Department of Veterans Affairs in the liquidation sale of the property securing such loan, any interest which had accrued as of the date of such sale and which would not be included, except for this subparagraph, in the calculation of such total indebtedness as a result of the specification of an earlier date under subparagraph (C)(i) of this paragraph.

(11) This subsection shall apply to loans closed before October 1, 2012.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1212, §1816(a)-(c); Pub. L. 89-117, title I, §107(f), Aug. 10, 1965, 79 Stat. 460; Pub. L. 94-324, §7(17), June 30, 1976, 90 Stat. 722; Pub. L. 98-369, div. B, title V, §2512(a), July 18, 1984, 98 Stat. 1117; Pub. L. 100-198, §§4(a), 5(a), Dec. 21, 1987, 101 Stat. 1316; renumbered §1832 and amended Pub. L. 100-322, title IV, §415(b)(1)(A)-(C), (5), May 20, 1988, 102 Stat. 550, 551; Pub. L. 101-237, title III, §§304(b), 307-308(b)(1), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2073-2075, 2077; Pub. L. 102-54, §§1, 3(a), 14(g)(1), June 13, 1991, 105 Stat. 267, 288; renumbered §3732 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-66, title XII, §12006(a), Aug. 10, 1993, 107 Stat. 414; Pub. L. 103-446, title IX, §907, Nov. 2, 1994, 108 Stat. 4677; Pub. L. 105-33, title VIII, §8013, Aug. 5, 1997, 111 Stat. 664; Pub. L. 106-419, title IV, §402(c), Nov. 1, 2000, 114 Stat. 1863; Pub. L. 107-103, title IV, §405(d), Dec. 27, 2001, 115 Stat. 994; Pub. L. 108-183, title IV, §406, Dec. 16, 2003, 117 Stat. 2666; Pub. L. 109-233, title V, §503(9), June 15, 2006, 120 Stat. 416; Pub. L. 111-275, title VIII, §802(a), Oct. 13, 2010, 124 Stat. 2888.)

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111-275 designated existing provisions as subpar. (A) and added subpar. (B).

2006—Subsec. (c)(10)(D). Pub. L. 109-233 substituted “paragraphs (5)(B), (6), (7)(B), and (8)(B)” for “clause (B) of paragraphs (5), (6), (7), and (8) of this subsection”.

2003—Subsec. (c)(11). Pub. L. 108-183 substituted “October 1, 2012” for “October 1, 2011”.

2001—Subsec. (c)(11). Pub. L. 107-103 substituted “October 1, 2011” for “October 1, 2008”.

2000—Subsec. (c)(11). Pub. L. 106-419 substituted “October 1, 2008” for “October 1, 2002”.

1997—Subsec. (c)(11). Pub. L. 105-33 substituted “October 1, 2002” for “October 1, 1998”.

1994—Subsec. (c)(6). Pub. L. 103-446, §907(b), struck out “either” after “defaulted loan”, substituted “sale,” for “sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan—”, struck out text of subpar. (A) and subpar. (B) designation before “the liability”, and redesignated cls. (i) and (ii) as cls. (A) and (B), respectively. Prior to amendment, subpar. (A) read as follows: “the Secretary may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and”.

Subsec. (c)(7). Pub. L. 103-446, §907(a)(1), struck out “that was the minimum amount for which, under appli-

cable State law, the property was permitted to be sold at the liquidation sale—” after “net value and” in introductory provisions.

Subsec. (c)(7)(A). Pub. L. 103-446, §907(a)(2), substituted “(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to” for “the Secretary may accept conveyance of the property to the United States for a price not exceeding” and “loan; or” for “loan; and” and added cl. (ii).

Subsec. (c)(7)(B). Pub. L. 103-446, §907(a)(3), substituted “paragraph (6)” for “paragraph (6)(B)”.

1993—Subsec. (c)(1)(C). Pub. L. 103-66, §12006(a)(1), inserted “(including losses sustained on the resale of the property)” after “resale”.

Subsec. (c)(11). Pub. L. 103-66, §12006(a)(2), substituted “shall apply to loans closed before October 1, 1998” for “shall cease to have effect on December 31, 1992”.

1991—Pub. L. 102-83, §5(a), renumbered section 1832 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, §5(c)(1), substituted “3703(e)” for “1803(e)”.

Subsec. (a)(4)(C). Pub. L. 102-54, §1, struck out subpar. (C) which read as follows: “The authority to carry out this paragraph shall terminate on March 1, 1991.”

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3711” for “1811”.

Subsec. (c)(1)(A). Pub. L. 102-83, §5(c)(1), substituted “3710(a)” for “1810(a)”.

Subsec. (c)(9). Pub. L. 102-83, §5(c)(1), substituted “3703(b)” for “1803(b)”.

Subsec. (c)(11). Pub. L. 102-54, §3(a), substituted “December 31, 1992” for “October 1, 1991”.

1989—Subsec. (a). Pub. L. 101-237, §313(b)(1), (2), substituted “Secretary”, “Secretary’s”, and “Department of Veterans Affairs” for “Administrator”, “Administrator’s”, and “Veterans’ Administration’s”, respectively, wherever appearing.

Pub. L. 101-237, §304(b), substituted “Except as provided in section 1803(e) of this title, if” for “If” in last sentence of par. (1).

Subsec. (a)(5). Pub. L. 101-237, §307, added par. (5).

Subsecs. (b), (c). Pub. L. 101-237, §313(b)(1), (2), substituted “Secretary” and “Department of Veterans Affairs” for “Administrator” and “Veterans’ Administration”, respectively, wherever appearing.

Subsec. (c)(1)(C)(ii). Pub. L. 101-237, §308(a), inserted “, excluding any amount attributed to the cost to the Government of borrowing funds” before period at end.

Subsec. (c)(11). Pub. L. 101-237, §308(b)(1), substituted “October 1, 1991” for “October 1, 1989”.

1988—Pub. L. 100-322, §415(b)(1)(C), (5)(A), redesignated section catchline of section 1816 of this title as section catchline of this section and struck out former catchline which read as follows: “Furnishing information to real estate professionals to facilitate the disposition of properties”.

Subsec. (a). Pub. L. 100-322, §415(b)(1)(A), (C), redesignated subsec. (a) of section 1816 of this title as subsec. (a) of this section, and in par. (4)(A)(i)(I) substituted “paragraph (2) of this subsection” for “section 1816(a)(2) of this title”.

Subsec. (b). Pub. L. 100-322, §415(b)(1)(C), redesignated subsec. (b) of section 1816 of this title as subsec. (b) of this section.

Subsec. (c). Pub. L. 100-322, §415(b)(1)(B), (C), redesignated subsec. (c) of section 1816 of this title as subsec. (c) of this section, in par. (10)(A) inserted “(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)” before period at end, and in par. (10)(B)(ii) inserted “(5)(A) or” after “under paragraph”.

1987—Subsec. (a)(4). Pub. L. 100-198, §4(a), added par. (4).

Subsec. (c)(1)(D). Pub. L. 100-198, §5(a)(1)–(3), substituted “Except as provided in subparagraph (D) of

paragraph (10) of this subsection, the” for “The” at beginning, “applicable under paragraph (10) of this subsection, and” for “of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection), and” in cl. (ii), and “regulations prescribed by the Administrator to implement this subsection” for “such regulations” in cl. (iii).

Subsec. (c)(10), (11). Pub. L. 100-198, §5(a)(4), added pars. (10) and (11).

1984—Subsec. (a)(1). Pub. L. 98-369, §2512(a)(1)(A)–(C), designated existing first sentence as par. (1), substituted “Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section,” for “Administrator who shall thereupon”, and substituted “guaranteed. If the Administrator makes a payment, the Administrator shall” for “guaranteed, and shall”.

Subsec. (a)(2). Pub. L. 98-369, §2512(a)(1)(A), designated existing second and third sentences as par. (2).

Subsec. (a)(3). Pub. L. 98-369, §2512(a)(1)(A), designated existing fourth sentence as par. (3).

Subsec. (c). Pub. L. 98-369, §2512(a)(2), added subsec. (c).

1976—Subsec. (a). Pub. L. 94-324 substituted “the Administrator’s” for “his”.

Subsec. (b). Pub. L. 94-324 substituted “the Administrator” for “he” wherever appearing.

1965—Pub. L. 89-117 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-275, title VIII, §802(b), Oct. 13, 2010, 124 Stat. 2889, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to a housing loan guaranteed after the date of the enactment of this Act [Oct. 13, 2010].”

EFFECTIVE DATE OF 1993 AMENDMENT

Section 12006(b) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section] shall become effective October 1, 1993.”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 308(b)(2) of Pub. L. 101-237 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as of October 1, 1989.”

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 4(b) of Pub. L. 100-198 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on March 1, 1988.”

Section 5(c) of Pub. L. 100-198 provided that: “The amendments made by subsection (a) [amending this section] shall apply to defaults which occur more than 60 days after the date of the enactment of this Act [Dec. 21, 1987].”

EFFECTIVE DATE OF 1984 AMENDMENTS

Section 1(a) of Pub. L. 100-136 provided that: “Notwithstanding section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369) [set out below], the provisions of section 1816(c) [now 3732(c)] of title 38, United States Code, shall continue in effect through November 15, 1987.”

Section 2512(c)(1) of Pub. L. 98-369 provided that: “The amendments made by subsection (a) [amending subsec. (a) and adding subsecs. (c) and (d) of section 1816 [now 3732(a), (c) and 3733(a)] of this title] shall take effect on October 1, 1984.”

Section 2512(c)(2) of Pub. L. 98-369, which provided that subsecs. (c) and (d) of section 1816 (now 3732(a), (c) and 3733(a)) of this title would cease to be effective on Oct. 1, 1987, was repealed by Pub. L. 100-198, §5(b), Dec. 21, 1987, 101 Stat. 1317.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

“NET VALUE” DEFINED WITH RESPECT TO LOANS
CLOSED BEFORE OCTOBER 1, 1993

Pub. L. 102-389, title I, Oct. 6, 1992, 106 Stat. 1574, provided in part: “That notwithstanding the provisions of 38 U.S.C. 3732(c)(1)(C) and (c)(11) or any other law, with respect to any loan guaranteed for any purpose specified in 38 U.S.C. 3710 which was closed before October 1, 1993, the term ‘net value’ for purposes of paragraphs (4) through (10) of 38 U.S.C. 3732[(c)] shall mean ‘the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost of the Government of borrowing funds.’”

§ 3733. Property management

(a)(1) Of the number of purchases made during any fiscal year of real property acquired by the Secretary as the result of a default on a loan guaranteed under this chapter for a purpose described in section 3710(a) of this title, not more than 65 percent, nor less than 50 percent, of such purchases may be financed by a loan made by the Secretary. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any fiscal year if the Secretary determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

(2) After September 30, 1990, the percentage limitations described in paragraph (1) of this subsection shall have no effect.

(3) The Secretary may, beginning on October 1, 1990, sell any note evidencing a loan referred to in paragraph (1)—

(A) with recourse; or

(B) without recourse, but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.

(4)(A) Except as provided in subparagraph (B), the amount of a loan made by the Secretary to finance the purchase of real property from the Secretary described in paragraph (1) may not exceed an amount equal to 95 percent of the purchase price of such real property.

(B)(i) The Secretary may waive the provisions of subparagraph (A) in the case of any loan described in paragraph (5).

(ii) A loan described in subparagraph (A) may, to the extent the Secretary determines to be necessary in order to market competitively the property involved, exceed 95 percent of the purchase price.

(5) The Secretary may include, as part of a loan to finance a purchase of real property from the Secretary described in paragraph (1), an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

(6) The Secretary shall make a loan to finance the sale of real property described in paragraph (1) at an interest rate that is lower than the prevailing mortgage market interest rate in areas

where, and to the extent, the Secretary determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans Housing Benefit Program Fund established by section 3722(a) of this title.

(7) During the period that begins on December 16, 2003, and ends on September 30, 2013, the Secretary shall carry out the provisions of this subsection as if—

(A) the references in the first sentence of paragraph (1) to “65 percent” and “may be financed” were references to “85 percent” and “shall be financed”, respectively;

(B) the second sentence of paragraph (1) were repealed; and

(C) the reference in paragraph (2) to “September 30, 1990,” were a reference to “September 30, 2013,”.

(b) The Secretary may not make a loan to finance a purchase of property acquired by the Secretary as a result of a default on a loan guaranteed under this chapter unless the purchaser meets the credit underwriting standards established under section 3710(g)(2)(A) of this title.

(c)(1) The Secretary shall identify and compile information on common factors which the Secretary finds contribute to foreclosures on loans guaranteed under this chapter.

(2) The Secretary shall include a summary of the information compiled, and the Secretary’s findings, under paragraph (1) in the annual report submitted to the Congress under section 529 of this title. As part of such summary and findings, the Secretary shall provide a separate analysis of the factors which contribute to foreclosures of loans which have been assumed.

(d)(1) The Secretary shall furnish to real estate brokers and other real estate sales professionals information on the availability of real property for disposition under this chapter and the procedures used by the Department of Veterans Affairs to dispose of such property.

(2) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Secretary as the result of a default on a loan guaranteed, insured, or made under this chapter, the Secretary shall list all such property with real estate brokers under such arrangements as the Secretary determines to be most appropriate and cost effective.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1212, §§ 1816(d)-(f), 1832; Pub. L. 98-369, div. B, title V, § 2512(a)(2), July 18, 1984, 98 Stat. 1117; Pub. L. 99-576, title IV, §§ 402(c)(1), 403, 408(a), Oct. 28, 1986, 100 Stat. 3281, 3283; Pub. L. 100-136, § 2, Oct. 16, 1987, 101 Stat. 813; Pub. L. 100-198, §§ 6(a)(1), (b)(1), 14, Dec. 21, 1987, 101 Stat. 1317, 1318, 1325; Pub. L. 100-203, title VII, §§ 7001, 7003(a), Dec. 22, 1987, 101 Stat. 1330-278, 1330-279; Pub. L. 100-253, § 2, Feb. 29, 1988, 102 Stat. 20; renumbered § 1833 and amended Pub. L. 100-322, title IV, § 415(b)(1)(D), (5)(B), (C), May 20, 1988, 102 Stat. 550, 551; Pub. L. 100-689, title III, § 301, Nov. 18, 1988, 102 Stat. 4176; Pub. L. 101-237, title III, §§ 305(a), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2073, 2077; Pub. L. 101-239, title V, §§ 5002, 5003(a), Dec.

19, 1989, 103 Stat. 2136; Pub. L. 102-54, §§2, 14(g)(1), 15(a)(5), June 13, 1991, 105 Stat. 267, 288, 289; renumbered §3733 and amended Pub. L. 102-83, §§2(c)(3), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 402, 406; Pub. L. 102-291, §5(b), May 20, 1992, 106 Stat. 180; Pub. L. 105-368, title VI, §602(c)(2), (e)(1)(E), Nov. 11, 1998, 112 Stat. 3346; Pub. L. 108-183, title IV, §404, Dec. 16, 2003, 117 Stat. 2664; Pub. L. 109-233, title V, §503(10), June 15, 2006, 120 Stat. 416; Pub. L. 111-275, title X, §1001(j), Oct. 13, 2010, 124 Stat. 2897.)

AMENDMENTS

2010—Subsec. (a)(7). Pub. L. 111-275 inserted comma after “2003” in introductory provisions.

2006—Subsec. (a)(7). Pub. L. 109-233, which directed the substitution of “December 16, 2003” for “the date of the enactment of the Veterans Benefits Act of 2003”, was executed by making the substitution for “the date of the enactment of the Veterans’ Benefits Act of 2003” to reflect the probable intent of Congress.

2003—Subsec. (a)(4)(A). Pub. L. 108-183, §404(b)(1)(A), (2), struck out “of this paragraph” after “subparagraph (B)” and “of this subsection” after “paragraph (1)”.

Subsec. (a)(4)(B)(i). Pub. L. 108-183, §404(b)(1)(B), (2), struck out “of this paragraph” after “subparagraph (A)” and “of this subsection” after “paragraph (5)”.

Subsec. (a)(4)(B)(ii). Pub. L. 108-183, §404(b)(2), struck out “of this paragraph” after “subparagraph (A)”.

Subsec. (a)(5), (6). Pub. L. 108-183, §404(b)(1)(A), struck out “of this subsection” after “paragraph (1)”.

Subsec. (a)(7). Pub. L. 108-183, §404(a), added par. (7).

Subsec. (c)(2). Pub. L. 108-183, §404(b)(1)(A), struck out “of this subsection” after “paragraph (1)”.

1998—Subsec. (a)(6). Pub. L. 105-368, §602(e)(1)(E), substituted “Veterans Housing Benefit Program Fund established by section 3722(a)” for “Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724(a)”.

Subsec. (e). Pub. L. 105-368, §602(c)(2), struck out subsec. (e) which read as follows: “Notwithstanding any other provision of law, the amount received from the sale of any note evidencing a loan secured by real property described in subsection (a)(1) of this section, and the amount received from the sale of securities under section 3720(h) of this title, shall be credited, without any reduction and for the fiscal year in which the amount is received, as offsetting collections of—

“(1) the revolving fund for which a fee under section 3729 of this title was collected (or was exempted from being collected) at the time of the original guaranty of the loan that was secured by the same property; or

“(2) in any case in which there was no requirement of (or exemption from) a fee at the time of the original guaranty of the loan that was secured by the same property, the Loan Guaranty Revolving Fund; and

the total so credited to any revolving fund for a fiscal year shall offset outlays attributed to such revolving fund during such fiscal year.”

1992—Subsec. (e). Pub. L. 102-291 inserted “, and the amount received from the sale of securities under section 3720(h) of this title,”.

1991—Pub. L. 102-83, §5(a), renumbered section 1833 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, §5(c)(1), substituted “3710(a)” for “1810(a)”.

Subsec. (a)(2). Pub. L. 102-54, §2(a), added par. (2) and struck out former par. (2) which read as follows: “In carrying out paragraph (1) of this subsection, the Secretary, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans made by the Secretary to finance purchases of real property from the Secretary described in that paragraph.”

Subsec. (a)(3). Pub. L. 102-54, §2(a), added par. (3) and struck out former par. (3) which authorized sales before

Oct. 1, 1990, of notes for loans under subsec. (a)(1) and required Secretary to make reports of such sales to Committees on Veterans’ Affairs of Senate and House of Representatives.

Subsec. (a)(6). Pub. L. 102-83, §5(c)(1), substituted “3724(a)” for “1824(a)”.

Pub. L. 102-54, §3(b), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: “This subsection shall cease to have effect on December 31, 1990.”

Subsec. (a)(7). Pub. L. 102-54, §3(b)(2), redesignated par. (7) as (6).

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3710(g)(2)(A)” for “1810(g)(2)(A)”.

Subsec. (c)(2). Pub. L. 102-83, §2(c)(3), substituted “section 529” for “section 214”.

Subsec. (d). Pub. L. 102-54, §14(g)(1), made a technical amendment to Pub. L. 100-322, §415(b)(5)(C). See 1988 Amendment note below.

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted “3729” for “1829” in par. (1).

Pub. L. 102-54, §15(a)(5), struck out subsec. (e) as added by Pub. L. 101-239, §5003(a), which was identical to subsec. (e) added by Pub. L. 101-237, §305(a)(3). See 1989 Amendment note below.

1989—Subsec. (a). Pub. L. 101-237 §313(b)(1), (2), substituted “Secretary” and “Department of Veterans Affairs” for “Administrator” and “Veterans’ Administration”, respectively, wherever appearing.

Subsec. (a)(3). Pub. L. 101-239, §5002, substituted “October 1, 1990” for “October 1, 1989” wherever appearing.

Pub. L. 101-237, §305(a)(1), which directed the amendment of subpar. (A) by substituting “Subject to subparagraph (C) of this paragraph,” for “Before October 1, 1990,” the amendment of subparagraph (B) by striking out “occurring before October 1, 1990,” after “of this paragraph”, and the amendment of subpar. (C) by substituting “October 1, 1989” for “October 1, 1990” in introductory provisions, did not become effective, see section 305(b)(1) of Pub. L. 101-237, set out as an Effective Date of 1989 Amendments note below.

Subsec. (a)(6). Pub. L. 101-237, §305(a)(2), substituted “December 31” for “October 1”.

Subsecs. (b) to (d). Pub. L. 101-237, §313(b)(1), (2), substituted “Secretary”, “Secretary’s”, and “Department of Veterans Affairs” for “Administrator”, “Administrator’s”, and “Veterans’ Administration”, respectively, wherever appearing.

Subsec. (e). Pub. L. 101-237, §305(a)(3), and Pub. L. 101-239, §5003(a), amended section identically adding identical subsecs. (e).

1988—Pub. L. 100-322, §415(b)(1)(D), added section catchline.

Subsec. (a). Pub. L. 100-322, §415(b)(1)(D), redesignated subsec. (d) of section 1816 of this title as subsec. (a) of this section.

Subsec. (a)(4)(B) [formerly §1816(d)(4)(B)]. Pub. L. 100-253 designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(7). Pub. L. 100-689 added par. (7).

Subsecs. (b), (c). Pub. L. 100-322, §415(b)(1)(D), redesignated subsecs. (e) and (f) of section 1816 of this title as subsecs. (b) and (c), respectively, of this section.

Subsec. (d). Pub. L. 100-322, §415(b)(5)(B), (C), as amended by Pub. L. 102-54, §14(g)(1), redesignated subsecs. (a) and (b) of section 1832 of this title as pars. (1) and (2), respectively, of subsec. (d) of this section.

1987—Subsec. (a)(1) [formerly §1816(d)(1)]. Pub. L. 100-198, §6(a)(1), and Pub. L. 100-203, §7003(a), amended par. (1) identically, substituting “not more than 65 percent, nor less than 50 percent” for “not more than 75 percent, nor less than 60 percent”. See 1988 Amendment note above.

Subsec. (a)(3) [formerly §1816(d)(3)]. Pub. L. 100-203, §7001, added subpars. (A) and (B), redesignated existing provisions as subpar. (C), substituted “Beginning on October 1, 1989, the Administrator may sell any note evidencing” for “The Administrator may sell any note securing”, and redesignated cls. (A) and (B) as (i) and (ii), respectively. See 1988 Amendment note above.

Pub. L. 100-136 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Notes securing such loans may be sold with recourse only to the extent that the Administrator determines that selling such notes with recourse is necessary in order to maintain the effective functioning of the loan guaranty program under this chapter." See 1988 Amendment note above.

Subsec. (a)(4) to (6) [formerly §1816(d)(4) to (6)]. Pub. L. 100-198, §6(b)(1), added pars. (4) to (6). See 1988 Amendment note above.

Subsec. (d) [formerly §1832]. Pub. L. 100-198, §14, designated existing provisions as subsec. (a) and added subsec. (b). See 1988 Amendment note above.

1986—Subsec. (b) [formerly §1816(e)]. Pub. L. 99-576, §402(c)(1), added subsec. (e). See 1988 Amendment note above.

Subsec. (c) [formerly §1816(f)]. Pub. L. 99-576, §403, added subsec. (f). See 1988 Amendment note above.

Subsec. (d) [formerly §1832]. Pub. L. 99-576, §408(a), enacted section. See 1988 Amendment note above.

1984—Subsec. (a) [formerly §1816(d)]. Pub. L. 98-369, §2512(a)(2), added subsec. (d). See 1988 Amendment note above.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 14(g)(1) of Pub. L. 102-54 provided that the amendment made by that section is effective as of May 20, 1988.

EFFECTIVE DATE OF 1989 AMENDMENTS

Section 5003(b) of Pub. L. 101-239 provided that: "Subsection (e) of section 1833 [now 3733] of title 38, United States Code, as added by subsection (a), shall apply with respect to amounts referred to in such subsection (e) received on or after October 1, 1989."

Section 305(b)(1) of Pub. L. 101-237, as amended by Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "If, before the date and time of the enactment of this Act [Dec. 18, 1989], no provision of law has been enacted amending section 1833 [now 3733] of title 38, United States Code, by adding a new subsection (e) with a text substantively identical to the text of the new subsection (e) added to such section 1833 [now 3733] by subsection (a)(3) of this section, the provisions of subsection (a)(1) of this section amending subsection (a)(3) of such section 1833 [now 3733] shall not take effect."

Section 305(b)(2) of Pub. L. 101-237, as amended by Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: "Subsection (e) of section 1833 [now 3733] of such title 38, as added by subsection (a)(3), shall apply with respect to amounts referred to in such subsection (e) received after September 30, 1989."

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 7003(b) of Pub. L. 100-203 provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1987."

Section 6(a)(2) of Pub. L. 100-198 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as of October 1, 1987."

Section 6(b)(2) of Pub. L. 100-198 provided that: "The amendment made by this subsection [amending this section] shall apply to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, see section 2512(c) of Pub. L. 98-369, as amended, set out as a note under section 3732 of this title.

RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS

Section 7004(b) of title VII of Pub. L. 100-203 provided that: "In applying the provisions of this title [title VII

of Pub. L. 100-203] and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 [Pub. L. 100-198] which make the same amendments as the provisions of this title [amending sections 1816 [now 3733] and 1829 [now 3729] of this title]—

"(1) the identical provisions of title 38, United States Code, amended by the provisions of this title and the provisions of such Act shall be treated as having been amended only once; and

"(2) in executing to title 38, United States Code, the amendments made by this title and by such Act, such amendments shall be executed so as to appear only once in the law."

REPORT TO CONGRESS

Section 6(c) of Pub. L. 100-198 directed Administrator of Veterans' Affairs, by Mar. 1, 1990, to transmit to Congress a report of activities carried out, through Dec. 31, 1989, under paragraphs (4) and (5) of section 1816(d) of this title [which became pars. (4) and (5) of subsec. (a) of this section].

§ 3734. Annual submission of information on the Veterans Housing Benefit Program Fund and housing programs

(a) In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary submits to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, the Secretary shall include—

(1) a description of the operations of the Veterans Housing Benefit Program Fund during the fiscal year preceding the fiscal year in which such budget is submitted; and

(2) the needs of such fund, if any, for appropriations for—

(A) the fiscal year in which the budget is submitted; and

(B) the fiscal year for which the budget is submitted.

(b) The matters submitted under subsection (a) of this section shall include, with respect to the fund referred to in subsection (a), the following:

(1) Information and financial data on the operations of the fund during the fiscal year before the fiscal year in which such matters are submitted and estimated financial data and related information on the operation of the fund for—

(A) the fiscal year of the submission; and

(B) the fiscal year following the fiscal year of the submission.

(2) Estimates of the amount of revenues derived by the fund in the fiscal year preceding the fiscal year of the submission, in the fiscal year of the submission, and in the fiscal year following the fiscal year of the submission from each of the following sources:

(A) Fees collected under section 3729(a) of this title for each category of loan guaranteed, insured, or made under this chapter or collected under section 3729(b) of this title for assumed loans.

(B) Investment income.

(C) Sales of foreclosed properties.

(D) Loan asset sales.

(E) Each additional source of revenue.

(3) Information, for each fiscal year referred to in paragraph (2) of this subsection, regard-

ing the types of dispositions made and anticipated to be made of defaults on loans guaranteed, insured, or made under this chapter, including the cost to the fund, and the numbers, of such types of dispositions.

(c) The information submitted under subsection (a) shall include a statement that summarizes the financial activity of each of the housing programs operated under this chapter. The statement shall be presented in a form that is simple, concise, and readily understandable, and shall not include references to financing accounts, liquidating accounts, or program accounts.

(Added Pub. L. 101-237, title III, §302(b)(1), Dec. 18, 1989, 103 Stat. 2070, §1834; renumbered §3734 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title VI, §602(d), (e)(1)(F), (3)(A), Nov. 11, 1998, 112 Stat. 3346, 3347; Pub. L. 107-14, §8(a)(9), June 5, 2001, 115 Stat. 35; Pub. L. 107-330, title III, §308(g)(12), Dec. 6, 2002, 116 Stat. 2829.)

AMENDMENTS

2002—Subsec. (b)(2)(B) to (F). Pub. L. 107-330 redesignated subpars. (C) to (F) as (B) to (E), respectively, and struck out former subpar. (B) which read as follows: "Federal Government payments under section 3729(a)(3) of this title."

2001—Subsec. (a). Pub. L. 107-14, §8(a)(9)(A), struck out "United States Code," after "section 1105 of title 31," in introductory provisions.

Subsec. (a)(2). Pub. L. 107-14, §8(a)(9)(B), substituted "appropriations for" for "appropriations in".

1998—Pub. L. 105-368, §602(e)(3)(A), substituted "Veterans Housing Benefit Program Fund and housing programs" for "Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund" in section catchline.

Subsec. (a)(1). Pub. L. 105-368, §602(e)(1)(F)(i)(I), substituted "Veterans Housing Benefit Program Fund" for "Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund".

Subsec. (a)(2). Pub. L. 105-368, §602(e)(1)(F)(i)(II), substituted "fund," for "funds," in introductory provisions.

Subsec. (b). Pub. L. 105-368, §602(e)(1)(F)(ii), substituted "the fund" for "each fund" in introductory provisions.

Subsec. (b)(2)(B) to (G). Pub. L. 105-368, §602(e)(1)(F)(iii), redesignated subpars. (C) to (G) as (B) to (F), respectively, in subpar. (B), substituted "section 3729(a)(3)" for "subsections (a)(3) and (c)(2) of section 3729", and struck out former subpar. (B) which read as follows: "Federal Government contributions made under clauses (A) and (B) of section 3725(c)(2) of this title."

Subsec. (c). Pub. L. 105-368, §602(d), added subsec. (c). 1991—Pub. L. 102-83, §5(a), renumbered section 1834 of this title as this section.

Subsec. (b)(2). Pub. L. 102-83, §5(c)(1), substituted "3729(a)" for "1829(a)" and "3729(b)" for "1829(b)" in subpar. (A), "3725(c)(2)" for "1825(c)(2)" in subpar. (B), and "3729" for "1829" in subpar. (C).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

[§ 3735. Renumbered § 2041]

§ 3736. Reporting requirements

The annual report required by section 529 of this title shall include a discussion of the activities under this chapter. Beginning with the re-

port submitted at the close of fiscal year 1996, and every second year thereafter, this discussion shall include information regarding the following:

(1) Loans made to veterans whose only qualifying service was in the Selected Reserve.

(2) Interest rates and discount points which were negotiated between the lender and the veteran pursuant to section 3703(c)(4)(A)(i) of this title.

(3) The determination of reasonable value by lenders pursuant to section 3731(f) of this title.

(4) Loans that include funds for energy efficiency improvements pursuant to section 3710(a)(10) of this title.

(5) Direct loans to Native American veterans made pursuant to subchapter V of this chapter.

(Added Pub. L. 104-110, title II, §201(a)(1), Feb. 13, 1996, 110 Stat. 770.)

SUBCHAPTER IV—SMALL BUSINESS LOANS

§ 3741. Definitions

For the purposes of this subchapter—

(1) The term "disabled veteran" means (A) a veteran who is entitled to compensation under laws administered by the Secretary for a disability rated at 30 percent or more, or (B) a veteran whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

(2) The term "veteran of the Vietnam era" means a person (A) who served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and who was discharged or released therefrom with other than a dishonorable discharge, or (B) who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1055, §1841; amended Pub. L. 99-576, title VII, §702(9), Oct. 28, 1986, 100 Stat. 3302; renumbered §3741 and amended Pub. L. 102-83, §§4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1841 of this title as this section.

Par. (1). Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

1986—Pub. L. 99-576 substituted "percent" for "per centum" in par. (1) and "180" for "one hundred and eighty" in par. (2).

EFFECTIVE DATE

Section 305 of title III of Pub. L. 97-72 provided that: "The amendments made by this title [see Tables for classification] shall take effect at the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act [Nov. 3, 1981], except that the authority of the Administrator of Veterans' Affairs to promulgate regulations under subchapter IV of chapter 37 of title 38, United States Code (as added by section 302), shall take effect on such date of enactment."

SHORT TITLE

For short title of title III of Pub. L. 97-72, which enacted this subchapter, as the "Veterans' Small Busi-